



Office of the Public Defender State of Hawaii



Timothy Ho, Chief Deputy Public Defender
Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary

February 9, 2012, 2:00 p.m.

RE: H.B. 2235, H.D. 1: Relating To Prostitution

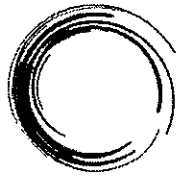
Chair Keith-Agaran and Members of the Committee:

The Office of the Public Defender supports the intent of H.B. 2235, H.D. 1, but has some concerns about the implementation of such a law.

Many women engage in acts of prostitution due to their vulnerability as result of their youth, family situation and/or substance abuse. Those individuals who were forced into engaging in prostitution should be encouraged to leave the profession, and the ability to clear their record would help them to further their educational and employment goals, as well as wipe their record (psychologically) clean.

We have a few questions and concerns about the language in this measure. What constitutes a reasonable time period? Due to space and manpower limitations, our office keeps our files for a limited time period. We do not have the capability to keep files for an extended period of time. Who determines whether an attorney, government agency, treatment professional, or other specified individuals and/or organizations are qualified to provide documentation of a person's status as a victim of trafficking? Who files the motion on behalf of the former prostitute?

We find this measure to be procedurally vague. Perhaps this measure could be referred to an inter-agency committee or task force to address expungement prostitution convictions for victims of trafficking.



POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY

TESTIMONY IN SUPPORT OF HB 2235 PRESENTED TO THE JUDICIARY COMMITTEE FEBRUARY 9, 2012

Mr. Chairman and members of the House Judiciary Committee; on behalf of the more than 40,000 supporters of Polaris Project, thank you for providing us with an opportunity to speak about the crime of human trafficking. My name is James Dold and I am Policy Counsel for the Polaris Project.

Polaris Project is a leading national organization dedicated to combating human trafficking within the United States by serving victims, raising public awareness, and engaging in policy advocacy at both the State and Federal level. We have been selected by the U.S. Department of Health and Human Services to be its training and technical assistance provider and have operated the National Human Trafficking Resource Center and Hotline since December 2007. During this time our human trafficking call specialists have fielded over 45,000 calls from across the nation. We have also provided victim services to more than 450 survivors of human trafficking since 2004 in our D.C. and New Jersey client service offices.

I would like to take a moment to specifically thank Representative Awana for introducing HB 2235. We greatly appreciate the Hawaii Legislature's concern for and willingness to address the crime of human trafficking, a grave violation of human rights.

Human Trafficking National and Global Perspective

Human trafficking is the modern-day slavery, and it is one of the fastest growing criminal industries in the world, consisting of the subjugation, recruitment, harboring, or transportation of people for the purpose of forced labor or services or commercial sexual exploitation. Victims of human trafficking in the United States include children and adults, as well as foreign nationals and U.S. citizens.

The United States Government estimates that between 600,000 to 800,000 people are trafficked across international borders for forced labor and sexual servitude each year, 70 percent of whom are women and over 50 percent are children. This does not include those trafficked within their own countries, which is as high as 2 to 4 million persons. Of those trafficked across international borders, up to over 60,000

individuals at a minimum are trafficked into the United States each year. These numbers suggest that the actual figure for the scope of human trafficking is much higher. Experts also estimate that between 100,000 to 300,000 American children are at high risk of being trafficked within the United States for sexual exploitation each year. The State Department estimates that there are roughly 12.3 million slaves in the world today, more than at any other time in the history of the world. Another estimate, by renowned human trafficking expert Kevin Bales, puts the total number of people trapped in modern-day slavery at an estimated 27 million. Most victims suffer a horrific life in which they are repeatedly beaten, raped, starved, chained or locked up, and psychologically tortured. For many, the only way of leaving is by means of escape, rescue, suicide, or murder.

There have been trafficking investigations in all 50 States and incidence of trafficking have been reported in 91 U.S. cities. Human trafficking is a crime that thrives in secrecy and is feed by the insatiable greed of those who see human beings as a commodity to be profited off of. Globally, human trafficking generates over \$32 billion in annual revenue.

In the United States, the crime of human trafficking is so profitable that in recent years we have seen the emergence of organized criminal syndicates and street level gangs implicated in sex trafficking rings. I cannot impress upon members of the Human Services Committee enough, that human trafficking is alive and well in the United States and it affects every corner of our nation. It is also prevalent in Hawaii.

Human Trafficking in Hawaii

Every day we receive calls through the National Human Trafficking Resource Center referencing situations where women and young children are subjected to violence, coercion, and fraud in order for their pimps or traffickers to profit. While we do not know how many victims there are in Hawaii, we do know that the National Hotline has received calls referencing trafficking situations in cities throughout the state of Hawaii. Some of these calls were classified as tips that human trafficking was occurring in different cities, including Honolulu, Hilo, and Wakiki Beach.

Human trafficking is a scourge that preys on the most vulnerable among us and exploits those who are in need of protection. And while it may be easy at times to pretend that human trafficking is not a crime that affects every day Americans, I can tell you with absolute certainty that it does. It is a crime of absolute evil.

HB 2235 – Vacating Convictions for Sex Trafficking Victims

HB 2235 is a critical component of Hawaii enacting a comprehensive legal framework to combat human trafficking. It will allow victims of human trafficking who were forced into prostitution to file a motion to have unjust convictions for prostitution vacated from their record.

Often times, victims of sex trafficking are held in conditions of slavery for months or even years. During that time they are likely to have come into contact with law enforcement and be arrested for prostitution-related offenses. Because they are not always identifiable once picked up off the street, sometimes these victims can go through the system and be convicted or even plead guilty to having engaged in prostitution. These convictions inhibit the ability of these victims to move forward with their lives because they can no longer apply for certain jobs, loans, or go back to school as a result of the stigma that is attached to having to report a conviction for prostitution. This bill will permit these victims to seek redress in Hawaii's courts and ultimately allow them a clean slate once they have been rescued from their trafficking situation.

Polaris Project initially began working on these Vacating Convictions bills as we came to realize that the victims of trafficking we were serving in the D.C., Virginia, and Maryland areas had difficulty seeking employment or going back to school as a direct result of these convictions. This is a new, innovative tool we have to enable victims of human trafficking to move forward with their lives once they've been rescued. New York was the first state to pass this legislation in 2010 and it received strong support by the legal community. In 2011, Polaris Project helped to successfully pass additional laws in Illinois, Maryland, and Nevada. In 2012, several states have similar bills pending.

The need for this legislation cannot be over stated as we seek to create a comprehensive, victim-centered, legal framework to combat human trafficking in the great state of Hawaii. The 2007 Trafficking In Persons Report put out by the U.S. State Department endorsed this victim-centered approach that is captured by HB 2235:

“Confirmed trafficking victims should not be punished for crimes that are a direct result of being trafficked—such as not holding proper immigration documents or violation of prostitution, labor, or begging statutes. Trafficking victims should not be detained in criminal detention facilities, except in extreme circumstances. They should be treated as victims.”

It is our hope that the House Judiciary Committee feels the same way about victims who have been forced into prostitution. That we should seek to allow those victims

redress for unjust convictions rendered against them and endeavor to ensure that their transition to living a full and healthy life is met with understanding and compassion toward the situation and horrific crimes to which they have survived.

Support HB 2235

Therefore, we strongly ask you and other members of the Committee to vote favorably upon HB 2235 and bring justice to victims who have been denied it. If you should have any questions, please feel free to call me at (202) 745-1001, ext. 132. Mahalo.

-James L. Dold, J.D.
February 9, 2012



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

**TESTIMONY FOR HOUSE BILL 2235, HOUSE DRAFT 1, RELATING TO
PROSTITUTION**

**House Committee on Judiciary
Hon. Gilbert S.C. Keith-Agaran, Chair
Hon. Karl Rhoads, Vice Chair**

**Thursday, February 9, 2012, 2:00 AM
State Capitol, Conference Room 325**

Honorable Chair Keith-Agaran and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 150 local members. On behalf of our members, we offer this testimony in support, with proposed amendments for HB 2235, HD 1, relating to prostitution.

Last year, lawmakers passed HB 141 and HB 240, the former of which outlawed labor trafficking in the islands and the latter of which strengthened existing anti-prostitution laws by expanding witness protection for victims and targeting repeat offenders, particularly pimps and johns. Both bills were important steps in rectifying Hawaii's poor image and record with regard to anti-trafficking statutes. Importantly, these new laws focus on demand for labor and sex trafficking, signaling our state's move toward combating those most responsible for trafficking violations—pimps, johns, owners and managers of prostitution houses, and traffickers themselves—while protecting those who are most vulnerable.

The IMUAlliance lauds the State Legislature's efforts, last session. At the same time, we call upon lawmakers to continue the fight against human trafficking by hearing and advancing bills that increase services afforded to victims. To that end, the IMUAlliance strongly supports the enactment of "vacating convictions" legislation authorizing a person convicted of committing the offense of prostitution to file a motion vacating an adverse judgement. Disclosure of criminal convictions, including misdemeanor convictions, is often required for employment and housing applications. Since victims of sex trafficking and coerced prostitution are acting against their will—effectively, in a condition of slavery—they should not be held accountable for their actions in a manner that could prevent the obtainment of stable residency or entry into and matriculation through the workforce, both of which are required for successful recovery from involuntary sexual servitude.

That said, we feel that the following amendment would improve the proposed measure. Section 2, §712- (1)(a) of the bill, as drafted, currently applies vacation of judgement to persons convicted of a violation of prostitution in the second degree, under HRS §712-1203. In principle, this could broaden the scope of the bill to include voluntary, independent sex workers. To keep the scope of the bill narrowly focused on those forced or coerced into committing involuntary acts of prostitution, we encourage your committee to revise this section to read: “Promoting prostitution in the first degree under section 712-1202 ~~or promoting prostitution in the second degree under section 712-1203.~~”

Again, the IMUAlliance thanks you for your hard work to stem human trafficking on our shores. Room for improvement remains, however, and we feel that the measure in question, with a minor amendment, will consecrate last year's momentum into a concerted movement. Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance

TESTIMONY

Harm Reduction Hawaii
c/o 1658 Liholiho St #205
Honolulu, HI 96822

To the House Committee on Judiciary
Regarding HB 2235 relating to prostitution
To be heard Thursday, February 9, 2012 in conference room 325

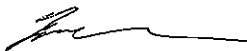
Dear Committee Members:

We support the intent of this bill, but feel it is unfair and unreasonable to insert "victimization" language into a bill that should rightly be aimed at helping persons convicted under our prostitution statutes get on with their lives. Despite claims to the contrary by anti-prostitution advocacy groups, such as those supporting this measure, only a small number of sex workers have pimps. The transgendered community is in particular need of relief from such a conviction record although no transgendered prostitute to my knowledge has ever had a pimp. Why should people who are at the bottom of the social scale to begin with not be allowed to clear their records while genetic women need only play some sort of victim card to excuse their criminal histories?

Even amended to include all convictions this measure would still not address the problem of an arrest record that can follow people around for decades after they have gone straight. If the legislature is serious about helping people they should look at decriminalization of prostitution altogether leaving the criminal code to deal only with persons who could be charged under our promoting prostitution in the first degree as criminals. All the other issues could be better addressed with zoning and civil fines. This would leave the question of a criminal record or even an arrest record out of the question for former sex workers to deal with. I offer an amendment that would more equitably deal with all sex workers.

I have spoken to people in the Downtown community who are concerned about prostitution and they are open to a decriminalized model using zoning. I offer a second possible amendment that would deal with both sex workers and community concerns.

Sincerely:



Tracy Ryan
Executive Director, Harm Reduction Hawaii

(808) 534-1846

tracyar@hawaiiantel.net



The PACIFIC ALLIANCE
to STOP SLAVERY

DATE: February 8, 2012

ATTN: HOUSE COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
Rep. Tom Brower
Rep. Angus L.K. McKelvey
Rep. Rida T.R. Cabanilla
Rep. Joseph M. Souki
Rep. Mele Carroll
Rep. Clift Tsuji
Rep. Denny Coffman
Rep. George R. Fontaine
Rep. Robert N. Herkes
Rep. Barbara C. Marumoto
Rep. Ken Ito
Rep. Cynthia Thielen
Rep. Sylvia Luke

DATE: Thursday, February 9, 2012
TIME: 2:00pm
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

RE: TESTIMONY IN SUPPORT OF HB2235 WITH AMENDMENTS - RELATING TO
PROSTITUTION

Dear Committee on Human Services:

The Pacific Alliance to Stop Slavery (PASS) is in support of this bill with amendments. PASS serves victims of Human Trafficking for sex or labor in the state of Hawaii and has a support base of over 7000 persons.

PASS is in strong support of HB2235, which will allow survivors who have been intimidated, forced, or defrauded into prostitution to file motions to petition the court to vacate convictions of prostitution offenses suffered while in servitude under their pimp/traffickers. Passing this bill into law is simply the right thing to do.



The PACIFIC ALLIANCE
to STOP SLAVERY

Victims of sex-trafficking, when rehabilitated and ready to enter back into society, face serious repercussions, societal bias, shame, sexual harassment and other debilitating factors when having to divulge prostitution on their records when they were held in sexual slavery against their will. They are the victims not the criminals.

We urge you to support this much needed legislation and recommend the following amendment on page 2, 712-__, (1)(a) to read as follows:

“Promoting prostitution in the first degree under section 712-1202 ~~or promoting prostitution in the second degree under section 712-1203.~~

Thank you very much for hearing this measure.

Sincerely,

Kathryn Xian
Executive Director
Pacific Alliance to Stop Slavery

TAHIRIH ASSOCIATION

322 Aolaa Street, Suite 601
Kailua, HI 96734
Phone (808) 262-6533


www.TahirihAssociation.org
info@TahirihAssociation.org

8306 Wilshire Blvd., Suite 70
Beverly Hills, CA 90211
Phone (323) 935-5090

February 8, 2012

Hearing Date: Thursday, February 9, 2012 (2:00 p.m.),
Conference Room 325
State Capitol
415 South Beretania Street

Committee: HOUSE COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
Rep. Tom Brower
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Rep. Sylvia Luke

RE: TESTIMONY IN SUPPORT OF **HB2235 WITH AMENDMENTS** - RELATING TO PROSTITUTION

Dear Committee on Human Services:

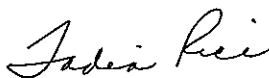
The Tahirih Association is in support of this bill with amendments. We serve victims of Human Trafficking for sex or labor in the state of Hawaii through our association with the Pacific Alliance to Stop Slavery (PASS). The Tahirih Association is in strong support of HB2235. It is critically important that survivors of intimidation or forced prostitution are able to file motions to petition the court to vacate convictions of prostitution offenses suffered while in forced service of pimps and traffickers. Passing this bill into law is simply the right thing to do.

Please help victims, not criminals, of sex-trafficking to reenter society and be productive citizens instead of suffering continued social and economic repercussions due to charges of prostitution remaining on their records.

We urge you to support this much needed legislation and recommend the following amendment on page 2, 712-__, (1)(a) to read as follows:

"Promoting prostitution in the first degree under section 712-1202 ~~or promoting prostitution in the second degree under section 712-1203.~~

Mahalo,



Tadia Rice
Executive Director

DATE: February 8, 2012

ATTN: HOUSE COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
Rep. Tom Brower
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Rep. Ken Ito
Rep. Cynthia Thielen
Rep. Sylvia Luke

DATE: Thursday, February 9, 2012

TIME: 2:00pm

PLACE: Conference Room 325
State Capitol
415 South Beretania Street

RE: TESTIMONY IN SUPPORT OF **HB2235** (RELATING TO PROSTITUTION)

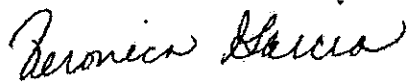
Dear Committee on Human Services:

I am an active volunteer with the Pacific Alliance to Stop Slavery and a former employee of the Department of the Attorney General. I am writing to express my strong support for HB 2235. The passage of this bill allows victims of sex trafficking to petition the court to vacate their convictions of prostitution during the time of their servitude. Human trafficking victims suffer physical, emotional, and sexual violence by their pimps and johns, and having a criminal record with prostitution offenses carries heavy stigma. Once they have successfully escaped from their trafficker, survivors still suffer from fear, post-traumatic stress disorder, and low self-esteem. This is only intensified when survivors try to reintegrate themselves back into society by applying for an apartment rental, job, or a credit card. For the offense of prostitution to show up on every job interview, loan form, credit check, and for international victims, visa application, this makes it nearly impossible for survivors to begin work and obtain independence.

I ask that you support this legislation for the victims of promoting prostitution in the first degree under section 712-1202. Promoting prostitution in the first degree is considered the most severe at the state level. I hope that you will consider the trauma these victims go through for their traffickers' pursuit of profit.

Please support this bill as many other states have. Your influence to help others begin a new life is critical for this legislation. As one survivor has stated, "When the door opens for you, your whole life changes." Thank you very much for your time in hearing this measure.

Sincerely,

A handwritten signature in cursive script that reads "Veronica Garcia". The ink is dark and the signature is fluid, with the first and last names clearly distinguishable.

Veronica Garcia

Testimony for HB2235 on 2/9/2012 2:00:00 PM

Testimony for HB2235 on 2/9/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, February 08, 2012 1:42 PM

To: JUDtestimony

Cc: tanalee08@yahoo.com

Testimony for JUD 2/9/2012 2:00:00 PM HB2235

Conference room: 325

Testifier position: Support

Testifier will be present: Yes

Submitted by: Tana-Lee Rebhan-Kang

Organization: Individual

E-mail: tanalee08@yahoo.com

Submitted on: 2/8/2012

Comments:

I support HB 2235 which will allow survivors of human trafficking to move on to a "normal" life without the albatross of a record of prostitution (for which he or she is not voluntarily responsible) hanging around his/her neck.

David A. Nisthal
1800 East-West Road
Honolulu, HI 96822

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair

COMMITTEE ON JUDICIARY

Monday, February 8, 2012 2:00pm

State Capitol, 415 South Beretania Street, Conference Room 325

RE: HB2235 RELATING TO PROSTITUTION

Authorizes a person convicted of committing the offense of prostitution to file a motion to vacate the judgment under certain circumstances. Establishes procedures for the motion to vacate.

Aloha Committee on Judiciary:

My name is David Nisthal, a graduate student at Myron B. Thompson School of Social Work and an advocate for the protection of victims of human trafficking. I am testifying in **STRONG SUPPORT OF HB2235 WITH AMENDMENTS**.

HB2235 is important because it will allow for vacating prostitution convictions where the defendant can show he or she was the victim of sex trafficking. Those who have been wrongfully convicted as “prostitutes” rather than “sex trafficking victims,” after they have been rescued, have a difficult time reintegrating back into society because their criminal record remains. Every time he/she goes in for a job interview, fills out a loan form, credit check, or visa application, he/she must disclose his/her arrests, which can bring about difficult consequences.

Also, engaging in “prostitution” carries much stigma, which makes it very difficult when a survivor of sexual slavery tries to find work and/or apply for citizenship.

Lastly, I urge you to support this much-needed legislation and recommend the following amendment on page 2, 712-__, (1)(a) to read as follows:

~~"Promoting prostitution in the first degree under section 712-1202 or promoting prostitution in the second degree under section 712-1203."~~

Please support HB2235 with these amendments.
Mahalo nui,

David A. Nisthal

Testimony for HB2235 on 2/9/2012 2:00:00 PM

Testimony for HB2235 on 2/9/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 09, 2012 1:22 AM

To: JUDtestimony

Cc: tadiarice@yahoo.com

Testimony for JUD 2/9/2012 2:00:00 PM HB2235

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Tadia Rice

Organization:

E-mail: tadiarice@yahoo.com

Submitted on: 2/9/2012

Comments:

Christopher D. Yanuaria
1800 East-West Road
Honolulu, HI 96822

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair

COMMITTEE ON JUDICIARY

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State Capitol, 415 South Beretania Street, Conference Room 325

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~~prostitution in the second degree under section 712-1203.~~

Please support HB2235 with these amendments.
Mahalo,

Christopher Yanuaria